THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 5415 of 2007

Dated: 16-3-2007

Between:

D.Dasharatham

.... PETITIONER

AND

The APSRTC,
Rep by its Regional Manager, Adilabad Region
Adilabad Town, Adilabad Dist & ano

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 5415 of 2007

Order:

This writ petition is filed seeking Writ of *Mandamus* declaring the action of the respondents in passing the impugned order dated 23.9.1999 imposing punishment of withholding of annual increment for a period of one year with cumulative effect and calling upon to petitioner to show cause as to why the punishment of debiting of an amount of Rs.1000/- should not be imposed as arbitrary and illegal.

The case of the petitioner is that he is employed as Driver in the respondent corporation. While so, he was issued with a charge sheet dated 21.8.1999 alleging rash and negligent driving resulting in a major accident on 26.7.1999. The petitioner submitted his explanation denying the charges levelled against him. However, without considering the same, and without conducting any enquiry, the impugned final orders were passed imposing punishment of withholding of annual increment with cumulative effect for a period of one year. The appeal preferred by the petitioner was rejected by order dated 13.4.2000. Hence, the present writ petition questioning the action of the respondents in imposing the major punishment without conducting a departmental enquiry.

Learned counsel for petitioner contends that punishment of deferment of increments for a period of one year with cumulative effect is a major penalty and the same cannot be imposed without conducting regular departmental enquiry as contemplated under the APSRTC

Employees' (CC & A) Regulations. In support of his contention, he placed reliance on judgment of the Supreme Court in KULWANTH SINGH GILL Vs. STATE OF PUNJAB[1]. Learned counsel for petitioner also relied on a judgment of this Court in W.P. No. 20609 of 1999 dated 7.12.2005 which is in a similar background of facts and circumstances.

On the other hand, learned Standing Counsel appearing on behalf of the respondents-corporation vehemently opposed the said contention and submitted that respondent No.2 after careful consideration of the entire evidence available on record together with the explanation submitted by the petitioner, has passed the impugned order, hence, no reasons to interfere with the same.

Heard the learned counsel for petitioner and learned Standing Counsel for respondent Corporation.

It is an admitted fact that the respondent imposed punishment of withholding of annual increment for a period of one year with cumulative effect, which is a major punishment. Admittedly, no regular departmental enquiry was conducted though the charge sheet was issued to the petitioner before imposing the penalty. The Apex Court in KULWANTH SINGH GILL'S CASE (cited supra) held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed without conducting the departmental enquiry. Since the punishment of stoppage of annual increment was imposed without conducting regular departmental enquiry violating the judgment of Apex Court, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside leaving it open to respondent to pass fresh orders. But to avoid further litigation in the matter, I deem it appropriate to dispose of the writ petition with the following direction.

The impugned order dated 23.9.1999 passed by the respondent

imposing the punishment of withholding of annual increment with cumulative effect, is modified to that of withholding of one increment without cumulative effect. The petitioner shall not be entitled to any monetary benefits arising out of this order, but shall be entitled to fixation of pay only.

Accordingly, the writ petition is disposed of. No costs.

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N.V.RAMANA,J

DATE: 16.3.2007

msv/

THE HON'BLE SRI JUSTICE N.V. RAMANA

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[1] 1990 (1) LLJ 635